IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

DE SANTIS et al.

Atty. Ref.: 4865-91; Confirmation No. 2737

Appl. No. 10/590,936

TC/A.U. 1653

Filed: August 28, 2006

Examiner: Unknown

For: ANTI-HUMAN TENASCIN MONOCLONAL ANTIBODY

August 11, 2008

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICIAL ACTION (MPEP §711.03(c) and 37 CFR §1.181)

Applicants hereby request (petition) to withdraw the holding of abandonment set forth in the Notification of Abandonment, dated July 11, 2008, (copy attached) for failure to respond timely to the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures dated May 29, 2007. The reason for this request (petition) is that the applicants' undersigned representative never received through regular mail channels a copy of the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures. Thus, withdrawal of the abandonment holding is believed to be in order and such action is solicited. (See MPEP §711.03(c).I.A.)

In support of this request, the applicants' undersigned representative notes the following:

. :

- (1) Upon receipt of the Notice of Abandonment dated July 11, 2008, it was observed that the subject application was abandoned because no reply was received in response to the Notification allegedly mailed on May 29, 2007.
- Upon receipt of the Notice of Abandonment dated July 11, 2008, a review of the USPTO's PAIR system indicated that a Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures was allegedly mailed on May 29, 2007. However, after a careful review of the records, it became apparent that the applicants' representatives (including the undersigned) never received the Notification.
- (3) The undersigned has searched the file jacket and docket records relating to the instant application, and both evidence that the Notification dated May 29, 2007 was not received. A copy of the relevant computer-based docket record relating to this application is attached as Exhibit A evidencing that the Notification dated May 29, 2007 was not in fact received by undersigned. The attached docket record, last updated March 27, 2008, does not indicate any Notification having been received, but instead indicates a Call-Up to be done on September 28, 2008 to see if an Office Action or filing receipt has been received. Thus, the attached docket record clearly indicates that the Notification dated May 29, 2007 was not received by applicant's representatives.

(4) The Nixon & Vanderhye ("N&V") Docketing System and Its Reliability

Applicant's representative, N&V has employed for at least the previous twenty years a docketing system whereby all correspondence received from the U.S. Patent and Trademark Office ("USPTO") through the US Postal Service is reviewed initially by a Docketing Specialist who enters the due date associated with such correspondence into a computer-based docket record. Another Docketing Specialist will verify the accuracy of the data entered into the computer-based docket record and will also manually enter into a separate paper Master Docket record the final due date associated with the USPTO correspondence. Thus, N&V docket records maintain the due date for patent applications in both electronic and paper form.

Moreover, these docketing records collectively include, but are not limited to, the application serial number, the attorney docket number, the mail date of the correspondence and the due date for the response to such correspondence.

The docketing system described above has proven to be highly reliable during the undersigned's tenure at N&V which began in 1985.

In this particular instance, had the USPTO correspondence of May 29, 2007 actually been received by N&V through the US Postal Service, there would have been an entry into the computer-based docket record. In addition, had such correspondence actually been received, an entry in the paper Master Docket record for December 29, 2007 (i.e., the final non-extendible due date for the May 29, 2007 correspondence) would also have been made.

5. The N&V Master Docket Record

As noted above, the N&V Docketing Specialists enter into a paper Master Docket record the final non-extendible due date for any USPTO correspondence received through the US Postal Service. Thus, since the May 29, 2007 correspondence set a non-statutory response due date of two (2) months from its mailing date, the final non-extendible due date would have been entered into the Master Docket record for December 29, 2007.

The Master Docket record for December 29, 2007 is attached hereto as Exhibit B. As can be observed, nowhere in the Master Docket record can a due date be observed attributable to the May 29, 2007 correspondence for the subject application.

In addition, as noted previously, the computer-based docket record (Exhibit A) for the subject application would have had noted receipt of the May 29, 2007 correspondence and its extendible 2-month due date of July 29, 2007. However, as the enclosed screen print of the computer-based docket record for the subject application reveals, no such information was entered therein.

And, as previously stated, a diligent search of the undersigned's other records related to the subject application, including the file jacket and the contents of the subject application, DE SANTIS et al. Appl. No. 10/590,936 August 11, 2008

evidence that for reasons unknown the correspondence of May 29, 2007 was not in fact received

by N&V through the US Postal Service.

In view of the facts above, it is respectfully requested that the Notification of

Abandonment dated July 11, 2008 be withdrawn.

A formal response to the Notification to Comply with Requirements for Patent

Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures, namely a

sequence listing, is being filed concurrently herewith. As such, there is no need to reissue the

Notification with a fresh response due date as all issues are being addressed with the

concurrently filed response.

It is believed that no fee is necessary in order to withdraw the abandonment status of this

application. However, if the Office deems otherwise, then please charge the fees required per the

deposit account charge authorization below.

Fee Authorization

The Commissioner is hereby authorized to charge any deficiency, or credit any

overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith

(or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:

Arthur R. Cyawford

Reg. No. 25,327

ARC:eaw

901 North Glebe Road, 11th Floor

Arlington, VA 22203-1808

Telephone: (703) 816-4000

Facsimile: (703) 816-4100

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United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandra, Viginia 22313-1450
www.upto.gov

U.S. APPLICATION NUMBER NO.

FIRST NAMED APPLICANT

ATTY. DOCKET NO.

10/590,936

Rita De Santis

4865-91

23117

NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203

INTERNATIONAL APPLICATION NO. PCT/IT2005/000078

I.A. FILING DATE PRIORITY DATE 02/16/2005 02/27/2004

CONFIRMATION NO. 2737 371 ABANDONMENT/TERMINATION LETTER



Date Mailed: 07/11/2008

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

• failed to responed notice (922) mailed 5/29/07

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

VONDA M WALLACE

Telephone: (703) 308-9140 EXT 225

Petition to Revive DATES DOCKETED

EXHIBIT A

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4	SN	X35-318	11/509,846	TMO. RESP (5X)	7/30/07	
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Confirmation No. 2737

DE SANTIS et al.

Atty. Ref: 4865-91

Appln. No. 10/590,936

Group Art Unit: 1656

Filed: August 28, 2006

Examiner: Not Known

FOR: ANTI-HUMAN TENASCIN MONOCLONAL ANTIBODY

RESPONSE TO NOTIFICATION TO COMPLY

August 11, 2008

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

In response to the Notification to Comply mailed May 29, 2007 (a copy of which is attached), entry and consideration of the attached Sequence Listing are requested.

Substitute paper and computer readable forms of a substitute Sequence Listing are submitted herewith. Kindly enter the attached in lieu of the original. The attached substitute paper and computer readable forms of the Sequence Listing do not add new matter, and their contents are the same. Prompt notice of any defects in the Sequence Listing is earnestly solicited and additional time is requested to comply.

Having responded to the Notification, Applicants submit the requirements for a patent application are satisfied and earnestly solicit an early examination on the merits. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

NIXON & VANDERHYE BA

By:

Arthur R/Crawford Reg. No. 25,327

901 North Glebe Road, 11th Floor Arlington, VA 22203-1808

Telephone: (703) 816-4000 Facsimile: (703) 816-4100



23117

United States Patent and Trademark Office

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UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address COMMISSIONER FOR PATENTS P.O. BOX 1450 Alexandria, Vinginia 22313-1450 www.unpto.gov

U.S. APPLICATION NUMBER NO. FIRST NAMED APPLICANT ATTY, DOCKET NO. 10/590,936

Rita De Santis

4865-91

INTERNATIONAL APPLICATION NO.

PCT/IT05/00078

I.A. FILING DATE

PRIORITY DATE

02/16/2005

CONFIRMATION NO. 2737 371 FORMALITIES LETTER

OC000000024084105*

Date Mailed: 05/29/2007

NIXON & VANDERHYE, PC

ARLINGTON, VA 22203

901 NORTH GLEBE ROAD, 11TH FLOOR

NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- This application clearly fails to comply with the requirements of 37 CFR. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment specifically directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825 (d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821 (e) may be submitted in lieu of a new CRF.
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ ebc@uspto.gov

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web. https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

VONDA M WALLACE

Telephone: (703) 308-9140 EXT 225

PART 2 - OFFICE COPY

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SEQUENCE LISTING

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